K 1946

File No. Co-operative II/45

Legal Department

B **BRANCH**

Subject:—

Bombay Co-operative —

Societies Act, 1925 —

Rules and Notifications

under the —

DEAD FILE

File No. Co-operative II/46

Gen. 194 e.

196-B

The facts are that the Kalyan Peoples' Co-operative Bank Ltd in its general meeting held on the 26th August 1945 has inter alia passed an amendment to the bye-laws extending the areas of the operation of the Bank to Shapur Taluka. The area of operation of the Bank at present extends over Kalyan and Murbad talukas. The Bank appears to have forwarded the amendment of the bye-laws to the Assistant Registrar for his approval under section 16(1) of the Bombay Co-operative Scoeities Act, 1925. The Assistant Registrar thinks that the amendment conflicts with section 7(1) (a) of the Act and he therefore did not give his approval to the same. The Registrar has however, recommended to Government to Government to exempt the Kalyan Peoples' Co-operative Bank from the Operation of section 7(1)(a of the Act in virtue of the powers conferred on Government under section 67 thereof. The Governme t has agreed with the Registrar's view and has forwarded for the scrutiny of the R.L.A. a draft notification at page 15 ante under section 67 of the Act.

2. Section 7(1)(a) of the Act provides that no society, other than a society of which a member is a society, shall be registered under this Act, which does not consist of at least ten persons above the age of eighteen years and , where the object of the society is the creation of funds to be lent to its members, unless such persons reside in the same town or village or in the same group of villages. Section 7(1) lays down certain conditions which must be complied with before a society is registered under the Act. Once the registration is effected and the certificate is issued under section 10, a certificate of registration shall be conclusive evidence that the society therein mentioned.

P.T .O.

is duly registered (cf. see 12) The word "person" used in section 7(1) is to be distinguished from the word 'member' used in the said section. What the section contemplates is that at least 10 persons intending to form a society should reside in the same town or village or in the same group of villages, and not that all the members of a society should reside in the same town or village or in the same group of villages. This residential qualification of at least 10 persons intending to form a society and not of members as assumed by the Registrar is further stressed in sections 8 and 9(2)(a) of the Act. The area of operation has been extended by the Kalyan Peoples' Co-operative Bank by amending by-law No. 8 of the Bank which the Bank is at liberty to do under section 16 of the Act and since the bye-law is not contrary to section 7(1)(a) or any rule made under the Act there is no legal objection to approving the amendment of the bye-law. The question* of x the Act does not ther fore arise.

x exempting Kalyan Peoples Cooperative Bank under section 67 of the Act from the operation of sec.. 7(1)(a)

Sd/- A.R.Khan

O.C.

for Remembrancer of Legal Affairs.

U.O.R. to R.D. No. 7250,,dated the 22nd October 1946.

Mjr/12/7

4 Cs.

Office of the R.L.A.

A revised draft order is sent herewith

2. The last para. in the Revenue Department draft order at page 63 has been deleted. Whenever any railway company mentioned in the schedule is purchased by Government, the entry relating to it may be deleted from the schedule.

Sd/-
O.C. 20/11
for Remembrancerof Legal Affairs.

U.R. to R.D., No. 8252, dated the 20th November 1946.

Mjr/12/7
5 Cs.

Office of the R.L.A.

A revised draft notification is sent herewith.

2. It appears from the letter of the Registrar, Co-operative Societies, at pp 161-162 ante that the Assistant Registrar, Co-operative Finance, has been delegated with powers under sections 10 and 16 of the Bombay Co-operative Societies Act, 1925. As the proposal now is to delegate to him the powers of the Registrar under the Act, except those under ~~[illegible]~~ Section 64, it would cover the powers under sections 10 and 16. It would be necessary therefore to supersede the previous notification by which powers under sections 10 and 16 were delegated to him. The revised notification accordingly supersedes all the previous notifications issued in respect of the said officer.

3. The Act confers powers on the Registrar and not on the Joint Registrar. And the Assistant Registrar, Co-operative Finance, should be given the powers of the Registrar and not of the Joint Registrar as proposed in R.D. notification

Sd/ - A.R..Khan
O.C.
For Remembrancer of Legal Affairs.

U.R. to R.D., No 6838, dated the 9th October 1946.

Mjr/12/7
4 Cs.

Office of the R.L.A.

As advised by the Remembrancer of Legal Affairs. in his opinion No. 5528, dated the 26th July 1945, the Revenue Department proposes to delgate the powers of the Registrar, Co-operative Societies, conferred upon him by the Bombay Co-operative Societies Rules, 1925, to the Joint Registrar, Deputy Registrars and Assistant Registrars.

2. It is also proposed to delegate to the Joint Registrar, the powers of the Registrar under section 64A of the Act to the extent specified in the note at p 3 ante.

3. As regards the second proposal, the Joint Registrar, is already empowered to exercise all the powers of a Registrar under the Act, except those conferred by section 64A (vide R.C.D. Notification No. 522/28. dated the 6th November 1945). As the powers of a Registrar under section 64A are now intended to be exercised by the Joint Registrar to the extent now proposed it is necessary to modify the notification referred to. It is advisable therefore to have a separate notification under section 4 of the Act so far as the powers of the Joint Registar undersection 64A of the Act a e concerned and to have another notification as regards the delegation of the powers under the rules made under the Act. The notification at page 9 ante is therefore split up into two notifications.

4. A revised notification in place of the one at page 9, ante delegating the powers under the rules is sent herewith subject to the following observations:-

(a) It appears from the Reconstruction Department Notification No. 522/28, dated the 6th November 1945, that the powers of a Registrar under the Act have been conferred on the Joint Registrar except those under section 64A thereof. Under this notification the powers under section 10 i.e. regarding registration have been conferred upon him. There is however no limitation put upon his powers in this respect. The wording "in respect of the types of Scoieties which he is competent

register" is therefore inappropirate and has been omitted from the draft notification. For the same reasons a similar wording used in the draft t ; 9 with reference to the powers of the Deputy Registrars has been omitted. The Deputy Registrar has also got unrestricted power in regard to the r gistration of the societies under section 10 as will be seen from the Revenue Department Notificati n No. 522/28(a), dated the 31st July 1939

(b) The meaning of th words "except Central banks and provincial societies" is not clearly understood. The Revenue Department should verify whether it is intended to mean that the Joint Registrar and Deputy Registrars should not use their powers in respect of" a District Central Co-operative Bank or the Bombay Provincial Co-operative Bank" and if so to substitute thos words for the words "central banks and provincial societies."

(c) It is stated in para 4 of the letter by the Registrar Co-op rative Society, that pow rs under section 54 of the Act, have been delegated to the Assistant Registrars. The R venue Department Notification No. 522/28, dated the 31st July 1939, ~~xxxxxx~~ does not refer to section 54. R.D. should verify whether the powers under the said section 54 have been delegated by some other notification.

Sd/- A.R. Khan
O.C.

For Remembrancer of Legal Affairs.

U.R. to R.D., No 6967, dated the 10th October 1946.

Mjr/12/7

4 Cs.